

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

NFS LEASING, INC.

Plaintiff,

v.

SA HOSPITAL ACQUISITION GROUP,
LLC, AMERICAN HEALTHCARE
SYSTEMS, LLC, and AMERICAN
HEALTHCARE SYSTEMS MISSOURI,
LLC

Defendants.

No. 4:23-cv-00203-AGF

MEMORANDUM AND ORDER

Plaintiff NFS Leasing, Inc. (“NFS”) filed its verified complaint in this case on February 20, 2023, asserting three causes of action against Defendants SA Hospital Acquisition Group, LLC (“SA Hospital”), American Healthcare Systems Missouri, LLC (“AHS MO”), and American Healthcare Systems, LLC (“AHS”) (the latter two, collectively, the “AHS Parties”) : (1) replevin against all Defendants with respect to certain medical equipment alleged to be owned by NFS and leased to SA Hospital (“Leased Equipment”); (2) conversion against the AHS Parties with respect to their alleged unlawful possession of and refusal to return the Leased Equipment; and (3) unjust enrichment against the AHS Parties with respect to their alleged use of the Leased Equipment without payment.

The matter is now before the Court on Plaintiff’s motion (ECF No. 32) for leave to file a second amended complaint. The proposed second amended complaint adds factual allegations regarding the lease and security agreements at issue, and adds claims against SA Hospital for breach of contract and specific performance relating to those agreements. Plaintiff asks that the Court permit it to file its amended complaint as a matter of course under Federal Rule of Civil

Procedure 15(a)(1), as its prior amendment was filed at the direction of the Court, or, alternatively, that the Court grant leave to amend under Rule 15(a)(2).

The AHS Parties do not oppose Plaintiff's motion but ask that the Court extend the deadline for their answer to the operative complaint no earlier than 10 days after the Court's ruling on the current motion.

However, SA Hospital opposes Plaintiff's motion. SA Hospital argues that Plaintiff previously filed suit against it in Massachusetts state court, asserting claims for breach of the same contract at issue here, and that the Massachusetts litigation is still pending. Thus, SA Hospital argues that the abstention doctrine set forth in *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800 (1976) applies to the proposed new claims, and that the Court should deny leave to amend in this case because the proposed amendment is futile.

Upon careful consideration of the record and the parties' arguments, the Court will grant Plaintiff's motion. Regardless of whether Plaintiff may amend as a matter of right pursuant to Federal Rule of Civil Procedure 15(a)(1), the Court concludes that leave to amend is warranted under Rule 15(a)(2). Under the latter Rule, a court "should freely give leave [to amend pleadings] when justice so requires," Fed. R. Civ. P. 15(a)(2), but leave may be denied where the proposed amendment would be futile or cause unfair prejudice to the opposing party, *Crest Const. II, Inc. v. Doe*, 660 F.3d 346, 358-59 (8th Cir. 2011).

Given the early stage of this case, the amendment would not cause undue prejudice. Nor can the Court conclude, on the record before it, that the proposed amendment is futile. SA Hospital may assert its arguments based on any parallel litigation, if it chooses, by filing a properly supported motion.

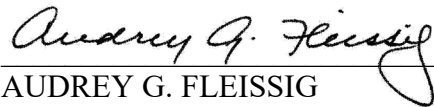
Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion for leave to file a second amended complaint is **GRANTED**. ECF No. 32. The Clerk of Court shall detach ECF No. 32-1 and file it as Plaintiff's Second Amended Complaint.

IT IS FURTHER ORDERED that Plaintiff shall promptly comply with any remaining service requirements under Federal Rule of Civil Procedure 4.

IT IS FURTHER ORDERED that Defendants American Healthcare Systems Missouri, LLC and American Healthcare Systems, LLC's motion to set deadline or otherwise respond to complaint is **GRANTED**. ECF No. 37. These Defendants shall have their requested 10 days from the date of this Order to respond to Plaintiff's second amended complaint.

IT IS FURTHER ORDERED that the Court shall set a Rule 16 conference by separate Order.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 12th day of April, 2023.